



Human Rights Council
Working Group on the Universal Periodic Review
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Summary of stakeholders' submissions on Tuvalu*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review and the outcome of the previous review.¹ It is a summary of seven stakeholders' submissions² for the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations³ and cooperation with human rights mechanisms

2. AI recommended that Tuvalu accede to the remaining core human rights treaties and incorporate these into domestic law.⁴ It also recommended that Tuvalu fulfil its existing obligations for treaty body reporting under the Convention for the Elimination of Discrimination Against Women as a priority, and ensure that future reports are submitted in a timely manner with appropriate civil society engagement and consultation.⁵

3. JAI recommended that Tuvalu ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.⁶

4. CGNK strongly recommended to the authorities of Tuvalu the swift ratification of the Convention on the Prevention and the Punishment of the Crime of Genocide.⁷ CGNK also recalled its previous recommendations for Tuvalu to ratify the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, and for Tuvalu to enhance participation in international affairs, including through promoting human rights in the Pacific Region, making recommendations in the universal periodic review process, and being more present on climate change issues.⁸

* The present document is being issued without formal editing.



B. National human rights framework

1. Constitutional and legislative framework

5. AI noted that in 2018 the Tuvalu Constitutional Review Project had been created to review and update the Constitution, however it was still ongoing with no proposed end date.⁹

6. CGNK recommended that Tuvalu amend paragraph 2 of article 16 of the Tuvalu Constitution, to align it with the primacy of the right to life and international obligations regarding exceptions to the right.¹⁰

2. Institutional infrastructure and policy measures

7. AI noted that the Office of the Chief Ombudsman served as the national human rights institution, and that the Ombudsman was responsible for aligning national laws with international conventions as stipulated in the National Strategy for Sustainable Development for 2016 to 2020. However, the Office of the Chief Ombudsman was not accredited as a national human rights institution under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).¹¹ AI recommended that Tuvalu seek national human rights institution accreditation for the Office of the Chief Ombudsman in accordance with the Paris Principles.

C. Promotion and protection of human rights

1. Implementation of international human rights obligations, taking into account applicable international humanitarian law

Equality and non-discrimination

8. AI reported that the Constitution included a Bill of Rights that guaranteed non-discrimination on the basis of race, place of origin, political opinions, colour, religious beliefs and sex, but did not mention gender identity or sexual orientation, and that this remained challenging for the lesbian, gay, bisexual, transgender and intersex community.¹²

Right to life, liberty and security of person, and freedom from torture

9. CGNK commended Tuvalu for accepting recommendation 101.4 made during the previous universal periodic review cycle to ratify the Convention on the Prevention and Punishment of the Crime of Genocide, but noted that the ratification had not yet been undertaken.

Fundamental freedoms and the right to participate in public and political life

10. AI noted that the Constitution prioritized traditional standards, values and practices over the individual's right to freedom of religion, freedom of belief and freedom of peaceful assembly and association. It reported that the Religious Bodies Registration Act 2008 deemed that a "religious body" of fifty persons or more must register with the state and be approved by the Falekaupule (the community or village elders) from their island, and that failure to do so may result in prosecution. The Religious Organisation Restriction Act 2020 also provided that where Tuvaluan values and culture were threatened, a community leaders may withdraw the approval of a religious organization. AI indicated that while the Tuvalu Government sought to promote religious tolerance, there were reports of ineffective communication with the outer islands. It highlighted that minority religions had successfully won cases in the court where local leaders had attempted to restrict religious activities.¹³

11. AI recommended that Tuvalu amend Article 3.1 in the Religious Bodies Registration Act 2008 and section 4.4 of the Religious Organisations Restriction Act 2020 to guarantee freedom of religion for all individuals, and continue to promote communication of religious tolerance for outer islands and hold local leaders accountable for abuses against minority religious groups.¹⁴

Right to health

12. AI noted that World Bank funds had been specifically directed to a new wing to the Princess Margaret Hospital in the capital Funafuti and to eleven other health clinics across the country, but that outer islands with the highest rates of non-communicable diseases in the country, received limited maintenance to their health facilities. There was also reportedly financial strain on the ability of Tuvalu to fund the overseas medical treatment scheme for the treatment of severe non-communicable disease cases. While community outreach services were provided for outer islands, all doctors in Tuvalu were based at the Princess Margaret Hospital. The eight outer islands had no doctors, while two islands lacked health clinics, and a further two islands did not have a midwife. All islands had at least two nurses and rural healthcare workers, except for Niulakita Island which only had one nurse.¹⁵

13. AI recommended that Tuvalu: strengthen the human and financial resources for health-care services for people living on the outer islands and direct budgetary allocations to the maintenance of health clinics on outer islands; improve access to emergency obstetric care, midwife training and resources devoted to maternal and reproductive healthcare for outer islands; and provide midwives, nurses and rural health care workers on outer islands with specialized training in noncommunicable diseases, and provide outer island health clinics with the necessary equipment for the treatment of such diseases.¹⁶

14. JS1 highlighted that Tuvalu consisted of a scattered group of atolls separated by the ocean, with poor Internet access and mass media standards, creating a great barrier for underserved populations from accessing sexual and reproductive health and rights information and clinical services, such as modern contraceptives methods. Young people, especially girls, were reportedly at risk regarding reproductive health status and sexually transmitted infections, given their limited access to information and corresponding poor decision making.¹⁷ AI highlighted that abortion was criminalized in all circumstances except where necessary to protect the woman's life, with penalties varying from 10 years to life imprisonment.¹⁸

15. JS1 called upon the government to increase financial assistance to existing sexual and reproductive health and rights service providers, and to provide the necessary resources to enhance the institutional capacity of the existing sexual and reproductive health and rights service providers, such as investing financial resources to introduce the digital and telehealth program and developing the information, education and communication online platforms.¹⁹ AI recommended that Tuvalu improve access to information and the accessibility of sexual and reproductive health services and decriminalize abortion.²⁰

16. ECLJ recommended that Tuvalu continue to protect life at all stages.²¹

17. JAI encouraged Tuvalu to explore whether States parties to the International Covenant on Economic, Social and Cultural Rights had infringed upon the right to health (including mental health) and the right to an adequate standard of living of the peoples of Tuvalu.²²

Right to education

18. BCN highlighted challenges for Tuvalu in ensuring access to quality education, including limited resources particularly affecting the outer islands, a shortage of trained teachers, potential damage to school infrastructure due to climate change-related severe weather events, and language barriers posed by the fact that many teachers were recruited from abroad when the primary language spoken is Tuvaluan. It indicated that the geographical remoteness of the island also resulted in limited access to technology, including computers and the Internet, thus making it difficult for students to access online educational resources and for teachers to use technology to enhance their teaching.²³

19. BCN recommended that Tuvalu: partner with international organisations that can provide resources and expertise to improve education in the country; allocate more resources for education, including funds for teacher training, classroom equipment, and school infrastructure; provide more training and professional development opportunities to teachers to improve their teaching skills and keep up with evolving educational practices; promote bilingual education; provide access to technology; and prioritise increasing access to quality early childhood education programmes.²⁴

20. JS1 expressed concern that women were not allowed to undertake further studies in the discipline of theology.²⁵ It recommended that the government strengthen the process of informing policymakers, and increase awareness raising among all the people, about gender equity.²⁶

21. JAI encouraged Tuvalu to consider whether States parties to the International Covenant on Economic, Social and Cultural Rights may be infringing on the right to education of girls in Tuvalu because of the failure of those States to limit greenhouse gas emissions that were impacting Tuvalu.²⁷

Cultural rights

22. JAI stated that Tuvalu should explore whether States parties to the International Covenant on Economic, Social and Cultural Rights are infringing on the right to take part or participate in cultural life recognized in Article 15 of the International Covenant on Economic, Social and Cultural Rights.²⁸

Development, the environment, and business and human rights

23. AI highlighted reports that Tuvalu was at high risk of coastal erosion, tidal surges, longer-lasting droughts and more frequent tropical cyclones. It noted that, since 2017, the Green Climate Fund had provided financial assistance for a Tuvalu Coastal Adaption Project to support environmental science and coastal engineering scholarships, training in shoreline monitoring and coastal planning, integrated learning about climate change in the primary school curriculum, coastal assessments, and training for outer-island government officers in ecosystem-based adaption coastal protection.²⁹

24. AI reported that in 2022 Tuvalu had updated its nationally determined contributions on climate emissions, focusing on mitigation and promoting a zero-carbon development pathway by 2050, and that Tuvalu has been a vocal advocate for the establishment of an international financial mechanism to support people suffering climate-induced loss and damage. It noted that Tuvalu was looking at legal ways to preserve ownership of its maritime zones and recognition of the state, even if the island was fully submerged or uninhabitable as a result of the climate crisis. AI stated that any relocation plans must include adequate consultation with affected communities and be consistent with international human rights law and standards. It asserted that Tuvalu may require, and was entitled to, international assistance and co-operation to support people facing loss and damage, including those who might need to relocate because their country was becoming uninhabitable due to climate change.³⁰

25. AI recommended that Tuvalu: continue to implement the Tuvalu Coastal Adaption Project climate change adaption policies to avoid or minimise impacts on the human rights of the people in Tuvalu and regularly and publicly report on progress through the Environmental and Social Management Plan; conduct inclusive and participatory loss and damage needs assessments considering the adverse effect of climate change on the enjoyment of human rights and ensuring that individuals and groups most affected are fully able to participate; ensure any new fund received to address loss and damage can be accessed by the most affected groups, including women, Indigenous Peoples, persons with disabilities and other marginalized groups, particularly those facing multiple and intersecting forms of discrimination; and seek international co-operation and assistance on proposed plans such as international relocation, with particular consideration given to the preservation of social, economic and cultural rights due to climate change and ensure such plans are consistent with international human rights laws and standards, including that Indigenous Peoples are able to maintain their collective identity and right to self-determination in a safe and adequate location that ensures all their human rights are guaranteed.³¹

26. JAI noted that Tuvalu's low-elevation made it particularly vulnerable to water-related natural disasters. JAI stated that Tuvalu should explore the contours of the right to a clean, healthy, and sustainable environment, and the obligations of other States to protect this right in the context of climate change impacts currently faced by Tuvalu. JAI also suggested that Tuvalu should explore whether the conduct of high-emitter nations infringes on the extraterritorial obligations of State parties to the International Covenant on Economic, Social

and Cultural Rights, with respect to impacts being felt in Tuvalu on economic, social, and cultural rights. It additionally recommended that Tuvalu encode ecocide as a crime.³²

2. Rights of specific persons or groups

Women

27. JS1 asserted that the prevalence of domestic violence in Tuvalu had had a serious impact and significantly strained the country's health care systems, affecting families and communities. Domestic violence was additionally a burden on the social system, social services, the development of the nation, and law enforcement, and contributed to lost labour and lost general progress in development. While commending the establishment of a safe house, it stated that this was not sufficient to respond to the needs of the survivors of domestic violence.³³ AI highlighted that access to justice for gender-based violence remained difficult for women as marital rape was not explicitly criminalised in the penal code.³⁴

28. AI recommended that Tuvalu reform the Penal Code to criminalize marital rape and continue to promote awareness and training on gender-based violence, continue to raise societal awareness about the contents of the Family Protection and Domestic Violence Act of 2014 and develop a national action plan on the prevention of violence against women and girls, and continue to integrate women into political leadership positions and ensure women are involved in policymaking and implementation.³⁵ JS1 called upon the Government to: urgently establish an adequate number of Safe Houses in the capital Funafuti, with a minimum of three, to accommodate the needs of the survivors of violence, and provide adequate funds for the administration of the Safe House scheme; and to develop a national standard operating procedure on the prevention and response to domestic violence.³⁶

29. AI reported that since Tuvalu launched their Gender Strategy and Action Plan as part of their Coastal Adaption Project for 2017 to 2024, women in leadership positions had significantly increased and women have become more involved in the project process.³⁷ JS1 asserted that it was difficult for women in Tuvalu to take up high-level decision making and leadership positions in the country, due to cultural beliefs and long-standing practice and traditions. While the law provided equal opportunities for women and men to contest elections, only 2 women out of 37 candidates had run for election since 2019 and only 1 woman was at the time a member of the Parliament, out of 16 seats. Although more women were now part of the Falekaupule (island councils), out of 48 positions in the Kaupule, 6 were occupied by women in 2021.³⁸

30. AI stated that Tuvalu should further integrate women into policymaking and implementation, establish training on gender mainstreaming, and involve women in decisions where they were under-represented.³⁹ JS1 recommended that the government collaborate with the local non-government organisations to change longstanding cultural beliefs and practices that hinder women in taking up leadership positions in the political, religious, and cultural spaces.⁴⁰ JAI recommended that Tuvalu reserve a number of Parliamentary seats for women.⁴¹

31. While congratulating the Government for providing a space for local businesses to sell their goods on one day of each month, JS1 expressed the need for women to be financially independent, asserting that husbands were mostly the controllers of finances for the family and used it for their own interest but not the basic needs of the family.⁴² JS1 recommended that the Government invest in equitable access to resources and equal benefits from government programs and services by providing a market space for women, organising business and e-commerce trainings, distributing seed grants for beginners, and organising business trainings and awareness.⁴³

Children

32. EndViolence reported that the Government had noted the recommendations on corporal punishment made at the third cycle universal periodic review. It indicated that no legislation to explicitly prohibit corporal punishment of children in all settings seemed to have been adopted since the review. The Education (Amendment) Act 2017 only repealed the provision authorising the use of corporal punishment in schools but did not explicitly

prohibit such punishment, while the legal implication of the Island Courts (Amendment) Act No. 5 of 2017 remained uncertain.⁴⁴ EndViolence highlighted that corporal punishment was lawful: in the home under the Constitution; in alternative care settings under the right “to administer reasonable punishment” in the Penal Code 1965; in early childhood care and in day care for older children under the right “to administer reasonable punishment” in the Penal Code 1965; and in schools in so far as the Education (Amendment) Act 2017 did not include explicit prohibition of corporal punishment in schools and that the right “to administer reasonable punishment” in the Penal Code 1965 also applied.⁴⁵ EndViolence recommended that Tuvalu intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.⁴⁶

33. EndViolence noted that Article 226 of the Penal Code 1965 confirmed “the right of any parent, teacher, or other person, having the lawful control of a child or young person to administer reasonable punishment to him”, reflecting the near universal acceptance of corporal punishment in childrearing.⁴⁷ EndViolence stated that this provision should be repealed, together with provisions for “discipline” in the Constitution 1978, so that there is clarity in law that no corporal punishment of children, however light, could be considered “reasonable”. It recommended that prohibition should be enacted of all corporal punishment, in all settings and by all adults with authority over children.⁴⁸

Persons with disabilities

34. JS1 reported that Tuvalu had ratified the Convention on the Rights of Persons with Disabilities in 2013, and had endorsed regional frameworks such as the Incheon Strategy to Make the Right Real for Persons with Disabilities in the Asia Pacific Region 2013–2022, and the 2016 Pacific Framework for the Rights of Persons with Disability. The government had also developed the 2018 Tuvalu National Policy on Persons with Disability, which had been revised in 2022 to implement human rights obligations under the Convention. JS1 also recalled that the government had reported in the third cycle of the universal periodic review that it intended to hold further consultations on the decision to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities, but expressed concern that there had been little progress on this. It further noted that the 2018 Tuvalu National Policy on Persons with Disability, which had been revised in 2022, remained to be finalised.⁴⁹ JS1 recommended that the Government ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities and complete the revision, finalisation, and endorsement of the Tuvalu National Policy on Persons with Disability.⁵⁰

35. AI asserted that persons with physical disabilities from birth were less likely to receive an education due to the lack of specialized education, and that persons with disabilities were also less likely to gain employment or attend community events as their accessibility was limited. People with psycho-social disabilities were reportedly further disadvantaged, as free basic healthcare did not extend to required specialist care.⁵¹ While acknowledging the efforts being made to educate children living with disabilities, JS1 highlighted that resources were centred in the capital Funafuti, meaning that children with disabilities living outside of the capital were unable to access education. It expressed concern that there was no consistent commitment from the government to provide education services, notably given the cessation of grant allocation to a special needs school for children with disabilities, and that the country did not have all the necessary technical and medical specialists, disability counsellors and therapists to provide support services for people with disabilities.⁵²

36. AI recommended that Tuvalu implement legislation to ensure that public spaces and services could accommodate people with disabilities, uphold and protect the right to education for all persons with disabilities by expanding education services and facilities and develop a separate curriculum for special needs students, and improve the availability and access to public health care for people with psycho-social disabilities.⁵³ JS1 called upon the Government to provide funding support to the education sector to strengthen the capacity of the teachers in the outer islands on disability inclusion, reinstate the grant allocation to the special needs school, and provide scholarships for Tuvaluans to undertake further studies in the areas of medical and disability counselling and therapy.⁵⁴

37. JAI recommended that Tuvalu bolster and protect the rights of persons with disabilities in regard to climate risks, and highlighted that Tuvalu could incorporate the input

and needs of persons with disabilities throughout the planning and implementation stages of its adaptation projects.⁵⁵

Lesbian, gay, bisexual, transgender and intersex persons

38. AI reported that Sections 153 and 155 of the Penal Code criminalised same-sex sexual activity. AI stated that while there was no evidence that these provisions were actively enforced, they needed to be repealed as a priority to ensure the wellbeing and safety of lesbian, gay, bisexual, transgender and intersex people.⁵⁶ It recommended to revise the Penal code to include a gender-neutral definition of rape and decriminalize same-sex sexual activity.⁵⁷

39. AI highlighted that the Labour and Employment Relations Act of 2017 prohibited discrimination based on sexual orientation, but that there were no laws protecting people from discrimination on the basis of gender identity or expression and sex characteristics, thus excluding transgender people from such protections.⁵⁸ AI recommended that Tuvalu develop and adopt legal and administrative measures to investigate acts of discrimination, stigmatization, and violence against people because of their sexual orientation, gender identity and expression and sex characteristics, and ensure that people were able to effectively access remedies when their rights are violated, including through criminal prosecutions, compensation, shelters, and medical and psycho-social support.⁵⁹

Notes

¹ A/HRC/39/8 and A/HRC/39/8/Add.1, and A/HRC/39/2.

² The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org (one asterisk denotes a national human rights institution with A status).

Civil society

Individual submissions:

AI	Amnesty International, London (United Kingdom of Great Britain and Northern Ireland);
BCN	The Stichting Broken Chalk, Amsterdam (Netherlands);
CGNK	Center for Global Non-Killing, Grand Saconnex (Switzerland);
ECLJ	European Center for Law and Justice, Strasbourg (France);
EndViolence	Global Partnership to End Violence Against Children, New York (United States of America);
JAI	Just Atonement Inc., New York (United States of America).

Joint submissions:

JS1	Joint submission 1 submitted by: Tuvalu Family Health Association, Funafuti (Tuvalu), Fusi Alofa Association Tuvalu, and Fakapotopotoga Fafine Ekalesia Kelisiano Tuvalu.
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³ *The following abbreviations are used in UPR documents:*

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in

OP-CRC-SC	armed conflict Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

- 4 AI para. 24.
- 5 AI para. 26.
- 6 JAI para. 7.
- 7 CGNK p. 3.
- 8 CGNK p. 3.
- 9 AI para. 1.
- 10 CGNK p. 3.
- 11 AI para. 2.
- 12 AI para. 1.
- 13 AI paras. 6–7.
- 14 AI paras. 27–28.
- 15 AI paras. 17–18.
- 16 AI paras. 38–40.
- 17 JS1 para. 21.
- 18 AI para. 5.
- 19 JS1 para. 22i–ii.
- 20 AI para. 32.
- 21 ECLJ para. 11.
- 22 JAI para. 31.
- 23 BCN paras. 6–10.
- 24 BCN paras. 11–16.
- 25 JS1 para. 4.
- 26 JS1 para. 5.
- 27 JAI para. 35.
- 28 JAI para. 43.
- 29 AI paras. 20–21.
- 30 AI paras. 22–23.
- 31 AI paras. 41–44.
- 32 JAI paras. 14, 22, 23 and 51.
- 33 JS1 paras. 17–19.
- 34 AI para. 5.
- 35 AI paras. 29–31.
- 36 JS1 para. 20 i.–ii.
- 37 AI para. 11.
- 38 JS1 para. 1.
- 39 AI para. 11.
- 40 JS1 para. 3.
- 41 JAI para. 37.
- 42 JS1 paras. 6–7.
- 43 JS1 para. 8.
- 44 EndViolence paras. 1.1–1.2.
- 45 EndViolence paras. 2.1, 2.4, 2.5, and 2.6.
- 46 EndViolence para. 1.3.
- 47 EndViolence p. 2.
- 48 EndViolence p. 2.
- 49 JS1 para. 10.
- 50 JS1 para. 11.
- 51 AI para. 12.
- 52 JS1 paras. 12–13.
- 53 AI paras. 33–35.
- 54 JS1 para. 14i.–iii.
- 55 JAI para. 41.

- ⁵⁶ AI para. 15.
 - ⁵⁷ AI para. 36.
 - ⁵⁸ AI paras. 16.
 - ⁵⁹ AI para. 37.
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